

**DECLARATION  
AND POWER OF ATTORNEY**  
Utility Application

LYON &amp; LYON LLP

240/090

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled "PYRROLE 2-INDOLINONE PROTEIN KINASE INHIBITORS", the specification of which

**Check One**

- ☐ is attached hereto.  
☐ was filed on \_\_\_\_\_ as

Application Serial No. \_\_\_\_\_

and was amended on \_\_\_\_\_  
 (if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above. I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

Application Number	Country	Date of Filing	Priority Claimed	
			Yes✓	No✓
60/087,310	USA	May 29, 1998	✓	
60/116,106	USA	January 15, 1999	✓	

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

Application Number	Date of Filing	Status—Patented, Pending or Abandoned

**POWER OF ATTORNEY:** As a named inventor, I hereby appoint as my attorneys, with full power of substitution and revocation, to prosecute this application and transact all business in the Patent and Trademark Office connected therewith: Roland N. Smoot, Reg. No. 18,718; Conrad R. Solum, Jr., Reg. No. 20,467; James W. Geriak, Reg. No. 20,233; Robert M. Taylor, Jr., Reg. No. 19,848; Samuel B. Stone, Reg. No. 19,297; Douglas E. Olson, Reg. No. 22,798; Robert E. Lyon, Reg. No. 24,171; Robert C. Weiss, Reg. No. 24,939; Richard E. Lyon, Jr., Reg. No. 26,300; John D. McConaghy, Reg. No. 26,773; William C. Steffin, Reg. No. 26,811; Coe A. Bloomberg, Reg. No. 26,605; J. Donald McCarthy, Reg. No. 25,119; John M. Benassi, Reg. No. 27,483; James H. Shalek, Reg. No. 29,749; Allan W. Jansen, Reg. No. 29,395; Robert W. Dickerson, Reg. No. 29,914; Roy L. Anderson, Reg. No. 30,240; David B. Murphy, Reg. No. 31,125; James C. Brooks, Reg. No. 29,898; Jeffrey M. Olson, Reg. No. 30,790; Steven D. Hemminger, Reg. No. 30,755; Jerrold B. Reilly, Reg. No. 32,293; Paul H. Meier, Reg. No. 32,274; John A. Rafter, Jr., Reg. No. 31,653; Kenneth H. Ohriener, Reg. No. 31,646; Mary S. Consalvi, Reg. No. 32,212; Lois M. Kwasigroch, Reg. No. 35,579; Lawrence R. LaPorte, Reg. No. 38,948; Robert C. Laurenson, Reg. No. 34,206; Carol A. Schneider, Reg. No. 34,923; Hope E. Melville, Reg. No. 34,874; Michael J. Wise, Reg. No. 34,047; Richard J. Warburg, Reg. No. 32,327; David T. Burse, Reg. No. 37,104; Jeffrey A. Miller, Reg. No. 35,287; Bernard F. Rose, Reg. No. 42,112; Michael J. Bolan, Reg. No. 42,339; Lynn Y. McKernan, Reg. No. 41,986; Craig A. Neugeboren, Reg. No. 39,314;; and \_\_\_\_\_ Reg. No. \_\_\_\_\_

## APPLICABLE STATUTES &amp; RULES

**37 CFR 1.56 DUTY TO DISCLOSE INFORMATION MATERIAL TO PATENTABILITY.**

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by ss 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
  - (i) Opposing an argument of unpatentability relied on by the Office, or
  - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

**35 U.S.C. 102. CONDITIONS FOR PATENTABILITY; NOVELTY AND LOSS OF RIGHT TO PATENT**

A person shall be entitled to a patent unless—

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent, or
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or
- (c) he has abandoned the invention, or
- (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States, or
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent, or
- (f) he did not himself invent the subject matter sought to be patented, or
- (g) before the applicant's invention thereof the invention was made in this country by another who had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

**35 U.S.C. 103. CONDITIONS FOR PATENTABILITY; NON-OBVIOUS SUBJECT MATTER**

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

**35 U.S.C. 119. BENEFIT OF EARLIER FILING DATE IN FOREIGN COUNTRY; RIGHT OF PRIORITY (Applicable Portion)**

An application for patent for an invention filed in this country by any person who has, or whose legal representatives or assigns have, previously regularly filed an application for a patent for the same invention in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States, shall have the same effect as the same application would have if filed in this country on the date on which the application for patent for the same invention was first filed in such foreign country, if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed; but no patent shall be granted on any application for a patent for an invention which has been patented or described in a printed publication in any country more than one year before the date of the actual filing of the application in this country, or which had been in public use or on sale in this country more than one year prior to such filing.

**35 U.S.C. 120. BENEFIT OF EARLIER FILING DATE IN THE UNITED STATES**

An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, by the same invention shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application.

**35 U.S.C. 112. SPECIFICATION (Applicable Portion)**

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification shall conclude with one or more claims particularly pointing out and distinctive claiming the subject matter which the applicant regards as his invention.

Send Correspondence to:

LYON & LYON LLP  
47th Floor, 633 W. Fifth St.  
Los Angeles, CA 90071Direct Telephone  
Calls to: Bernard F. Rose  
408) 993-1555

201	FULL NAME OF INVENTOR	FIRST Name: PENG	Middle Initial(s) CHO	LAST Name TANG	
	RESIDENCE & CITIZENSHIP	City Moraga	State or Foreign Country California	County of Citizenship United States of America	
	POST OFFICE ADDRESS	Post Office Address 827 Camino Ricardo	City Moraga	State or Country California	Zip Code 94556


202	FULL NAME OF INVENTOR	FIRST Name LI	Middle Initial(s)	LAST Name SUN	
	RESIDENCE & CITIZENSHIP	City Foster City	State or Foreign Country California	County of Citizenship China	
	POST OFFICE ADDRESS	Post Office Address 64 Rockharbor Lane	City Foster City	State or Country California	Zip Code 94404


203	FULL NAME OF INVENTOR	FIRST Name GERALD	Middle Initial(s)	LAST Name McMAHON	
	RESIDENCE & CITIZENSHIP	City Kenwood	State or Foreign Country California	County of Citizenship United States of America	
	POST OFFICE ADDRESS	Post Office Address 1800 Schultz Road	City Kenwood	State or Country California	Zip Code 95452


204	FULL NAME OF INVENTOR	FIRST Name	Middle Initial(s)	LAST Name	
	RESIDENCE & CITIZENSHIP	City	State or Foreign Country	County of Citizenship	
	POST OFFICE ADDRESS	Post Office Address	City	State or Country	Zip Code

205	FULL NAME OF INVENTOR	FIRST Name	Middle Initial(s)	LAST Name	
	RESIDENCE & CITIZENSHIP	City	State or Foreign Country	County of Citizenship	
	POST OFFICE ADDRESS	Post Office Address	City	State or Country	Zip Code

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signature of Inventor 201	
Date	June 1, 1999

Signature of Inventor 202	
Date	June 1, 1999

Signature of Inventor 203	
Date	June 1, 1999

(Signatures should conform to names as presented at 201 et seq. above.)

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 038802/0332

In re patent application of

Peng TANG, et al.

Serial No. 09/322,297

Art Unit: 1628

Filed: May 28, 1999

Examiner: S. Wright

For: PYAROLE SUBSTITUTED 2-INDOLINONE PROTEIN KINASE INHIBITORS

**REVOCATION OF PRIOR POWERS OF ATTORNEY AND  
APPOINTMENT OF NEW POWER OF ATTORNEY BY ASSIGNEE  
CHANGE OF CORRESPONDENCE ADDRESS**Commissioner for Patents  
Washington, D.C. 20231

Sir:

SUGEN, Inc. is the assignee of Application No. 09/322,297, filed May 28, 1999, and all continuing applications thereof, as evidenced by an Assignment recorded in the U.S. Patent and Trademark Office on JULY 16, 1999 at reel/frame 10123/715.

SUGEN Inc., through its duly-delegated representative, hereby revokes all prior Powers of Attorney submitted in this application, and hereby appoints the following registered attorneys and agents of the law firm of FOLEY & LARDNER:

STEPHEN A. DENT	Reg. No. 28,768
DAVID A. BLUMENTHAL	Reg. No. 26,257
BETH A. BURROUS	Reg. No. 38,087
ALAN I. CANTOR	Reg. No. 28,183
WILLIAM T. ELLIS	Reg. No. 26,874
JOHN J. FELDHAUS	Reg. No. 28,822
MICHAEL D. KAMINSKI	Reg. No. 32,804
LYLE K. KIMMS	Reg. No. 34,078
KENNETH E. KROSIN	Reg. No. 26,728
JOHNNY A. KUMAR	Reg. No. 34,848
GLENN LAW	Reg. No. 34,371
PETER G. MACK	Reg. No. 28,001
STEPHEN B. MAEBIUS	Reg. No. 36,284
BRIAN J. MC NAMARA	Reg. No. 32,789

002.643087

Page 03

## POWER OF ATTORNEY

LYON & LYON LLP  
DOCKET INFORMATION240/090

Sugen, Inc., assignee(s) of the application for United States Letters Patent for an improvement in  
"PYRROLE SUBSTITUTED 2-INDOLINONE PROTEIN KINASE INHIBITORS", by Peng Cho  
Tang, Li Sun and Gerald McMahon.

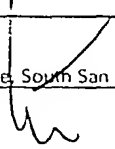
(Inventors)

- ☐ executed on even date herewith, or  
☐ having Serial No. \_\_\_\_\_ Filed \_\_\_\_\_

a copy of the assignment of which is attached hereto, do(es) hereby appoint as attorneys of record with full power of substitution and revocation, to prosecute this application and transact all business in the Patent and Trademark Office connected therewith: Roland N. Smoot, Reg. No. 18,718; Conrad R. Solum, Jr., Reg. No. 20,467; James W. Geriak, Reg. No. 20,233; Robert M. Taylor, Jr., Reg. No. 19,848; Samuel B. Stone, Reg. No. 19,297; Douglas E. Olson, Reg. No. 22,798; Robert E. Lyon, Reg. No. 24,171; Robert C. Weiss, Reg. No. 24,939; Richard E. Lyon, Jr., Reg. No. 26,300; John D. McConaghy, Reg. No. 26,773; William C. Steffin, Reg. No. 26,811; Coe A. Bloomberg, Reg. No. 26,605; J. Donald McCarthy, Reg. No. 25,119; John M. Benassi, Reg. No. 27,483; James H. Shalek, Reg. No. 29,749; Allan W. Jansen, Reg. No. 29,395; Robert W. Dickerson, Reg. No. 29,914; Roy L. Anderson, Reg. No. 30,240; David B. Murphy, Reg. No. 31,125; James C. Brooks, Reg. No. 29,898; Jeffrey M. Olson, Reg. No. 30,790; Steven D. Hemminger, Reg. No. 30,755; Jerrold B. Reilly, Reg. No. 32,293; Paul H. Meier, Reg. No. 32,274; John A. Rafter, Jr., Reg. No. 31,653; Kenneth H. Ohriner, Reg. No. 31,646; Mary S. Consalvi, Reg. No. 32,212; Lois M. Kwasigroch, Reg. No. 35,579; Lawrence R. LaPorte, Reg. No. 38,948; Robert C. Laurensen, Reg. No. 34,206; Carol A. Schneider, Reg. No. 34,923; Hope E. Melville, Reg. No. 34,874; Michael J. Wise, Reg. No. 34,047; Richard J. Warburg, Reg. No. 32,327; David T. Burse, Reg. No. 37,104; Jeffrey A. Miller, Reg. No. 35,287; Bernard F. Rose, Reg. No. 42,112; Michael J. Bolan, Reg. No. 42,339; Lynn Y. McKernan, Reg. No. 41,986; Craig A. Neugeboren, Reg. No. 39,314;; and

Send Correspondence to:	LYON & LYON LLP First Interstate World Center 47th Floor, 633 W. Fifth St. Los Angeles, CA 90071-2066	Direct Telephone Calls to: <u>Bernard F. Rose</u> (408) 993-1555
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I, the undersigned, declare that I am the (an) assignee of the above-identified application or, if the assignee is a corporation, partnership or other association, I am authorized to make this appointment on behalf of the assignee and I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Full Name of Assignee <u>Sugen, Inc.</u>	
Post Office Address <u>230 East Grand Avenue, South San Francisco, California 94080-4811</u>	
Signature of Declarant or Assignee 	Date <u>June 2</u> , 1999

Full Name of Declarant If Other Than Assignee
Title of

240/090  
PATENTASSIGNMENT

WHEREAS, I, **PENG CHO TANG**, a citizen of the United States of America, residing at 827 Camino Ricardo, Moraga, California 94556; **LI SUN**, a citizen of China, residing at 64 Rockharbor Lane, Foster City, California 94404; and **GERALD MCMAHON**, a citizen of United States of America, residing at 1800 Schultz Road, Kenwood, California 95452, have invented a new and useful invention, titled **"PYRROLE SUBSTITUTED 2-INDOLINONE PROTEIN KINASE INHIBITORS"** for which we have filed application papers for United States Letters Patent thereon under attorney docket number 240/090, and

WHEREAS **SUGEN, INC.**, a Delaware corporation, having a place of business at 230 East Grand Avenue, South San Francisco, California 94080-4811, is desirous of acquiring the exclusive right, title and interest in and to said invention and in to the Letters Patent to be granted and issued therefor in the United States of America and its territories and possessions, and all countries foreign thereto;

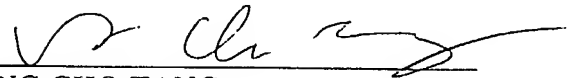
240/090  
PATENT

NOW THEREFORE for a valuable consideration, the receipt of which is hereby acknowledged, we, **PENG C. TANG, LI SUN, and GERALD McMAHON**, do hereby sell, assign, transfer and set over unto the said **SUGEN, INC.** its successors and assigns, the full and exclusive right, title and interest in and to said invention, and in and to any and all Letters Patents to be granted and issued therefore, not only form to and in the United States of America, its territories and possessions, but also for, to and in all other countries including all priority rights under the International Convention for the Protection of Industrial property for every member country, and all applications for patents heretofore or hereafter filed for said invention in any foreign countries and all patents (including all extensions, renewals and reissues thereof) granted for said invention in any foreign countries; and we hereby authorize and request the Commissioner of Patents and Trademarks, and any officials of foreign countries whose duty it is to issue patents on applications as aforesaid, to issue all patents for said invention to **SUGEN, INC.**, its successors and assigns, in accordance with this Assignment.



240/090  
PATENTIN TESTIMONY WHEREOF, I hereunto set my hand this 2<sup>nd</sup> day of June,

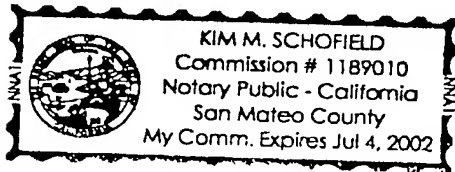
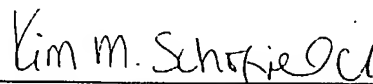
1999

  
 PENG CHO TANG

 STATE OF CALIFORNIA       )  
                                       ) ss.  
 COUNTY OF SAN MATEO       )


On this 2<sup>nd</sup> day of June, 1999, before me, a Notary Public, State of California, duly commissioned and sworn, personally appeared **PENG CHO TANG** known to me to be the person whose name is subscribed to in the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in South San Francisco, California the day and year first above written.


  
 NOTARY PUBLIC

240/090  
PATENT

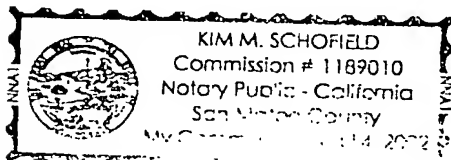
IN TESTIMONY WHEREOF, I hereunto set my hand this 2 day of June,  
1999

  
\_\_\_\_\_  
LI SUN

STATE OF CALIFORNIA            )  
  ) ss.  
COUNTY OF SAN MATEO        )

On this 2nd day of June, 1999, before me, a Notary Public, State of California,  
duly commissioned and sworn, personally appeared **LI SUN** known to me to be the person  
whose name is subscribed to in the within instrument and acknowledged to me that he executed  
the same.


IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official  
seal in South San Francisco, California the day and year first above written.



  
\_\_\_\_\_  
NOTARY PUBLIC

240/090  
PATENTIN TESTIMONY WHEREOF, I hereunto set my hand this 2nd day of June,

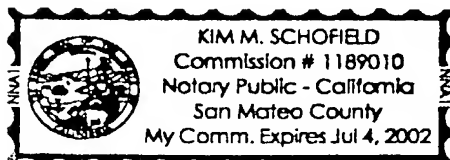
1999

  
 GERALD McMAHON

STATE OF CALIFORNIA            )  
   ) ss.  
 COUNTY OF SAN MATEO        )

On this 2nd day of June, 1999, before me, a Notary Public, State of California, duly commissioned and sworn, personally appeared **GERALD McMAHON** known to me to be the person whose name is subscribed to in the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in South San Francisco, California the day and year first above written.



Kim M. Schofield  
 NOTARY PUBLIC